

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
C.A. No. 3:21-cv-00674-MOC-DSC

BRIAN D. GREEN,

Plaintiff,

v.

SMITH DEBNAM NARRON DRAKE
SAINTSING & MYERS, LLP,
JERRY T. MYERS, and
MELISSA A. TULIS,

Defendants.

**DEFENDANTS' MOTION TO STRIKE PLAINTIFF'S FIRST AMENDED
COMPLAINT**

NOW COME the defendants Smith Debnam Narron Drake Saintsing & Myers, LLP, Jerry T. Myers, and Melissa A. Tulis ("Defendants"), by and through counsel, and pursuant to Rules 12(f) and 15(a) of the Federal Rules of Civil Procedure, move the Court to strike Plaintiff's First Amended Complaint (Doc. No. 16). Plaintiff does not have a right to amend its Original Complaint (Doc. No. 1) for a second time under Rule 15(a) of the Federal Rules of Civil Procedure without leave of Court or the written consent of the Defendants, and any amendments made in Plaintiff's First Amended Complaint (Doc. No. 16) are futile. The basis for Defendants' motion is set forth more particularly in the Memorandum which is filed contemporaneously herewith.

WHEREFORE, Defendants respectfully request the Court strike Plaintiff's First Amended Complaint in its entirety pursuant to Rule 12(f) and Rule 15(a) of the Federal Rules of Civil Procedure.

This the 25th day of April, 2022.

/s/ Caren D. Enloe
Caren D. Enloe
SMITH DEBNAM NARRON DRAKE
SAINTSING & MYERS LLP
NC State Bar No. 17394
P.O. Box 176010
Raleigh, NC 27619-6010
Telephone: 919-250-2000
Facsimile: 919-250-2124
Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on April 25, 2022, I placed a copy of the foregoing document in the United States mail, first class postage prepaid, addressed as follows:

Brian D. Green
113 Indian Trail Road N.
Suite 280
Indian Trail, NC 28079

/s/ Caren D. Enloe
Caren D. Enloe
SMITH DEBNAM NARRON DRAKE
SAINTSING & MYERS LLP
NC State Bar No. 17394
P.O. Box 176010
Raleigh, NC 27619-6010
Telephone: 919-250-2000
Facsimile: 919-250-2124
cenloe@smithdebnamlaw.com
Counsel for Defendants